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9 Attorneys for Plaintiff  
UNITED STATES OF AMERICA

10  
11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 OAKLAND DIVISION

14 UNITED STATES OF AMERICA,

No. CR 14-00247 JD

15 Plaintiff,

STIPULATION REGARDING REQUEST FOR  
(1) CONTINUANCE OF HEARING DATE  
AND (2) FINDINGS OF EXCLUDABLE TIME  
PERIODS PURSUANT TO SPEEDY TRIAL  
ACT

16 v.

17 MARIO IVAN SANDOVAL, and  
DANIEL RUIZ-MERCADO,

18 Defendants.  
19  
20 Current Hearing Date: May 23, 2014  
Proposed Hearing Date: June 27, 2014

21 Plaintiff United States of America, by and through its counsel of record, the United States

22 Attorney for the Northern District of California and Assistant United States Attorney Garth Hire, and  
23 defendants Mario Ivan Sandoval (SANDOVAL) and Daniel Ruiz-Mercado (RUIZ-MERCADO)  
24 (collectively, the defendants), by and through their respective counsel of record, Joyce Leavitt and  
25 Erik Babcock, hereby stipulate as follows:

26 1. On May 1, 2014, a federal grand jury returned an indictment against the defendants.

27 Both defendants were charged with conspiracy to distribute, and to possess with intent to distribute,

1 methamphetamine, in violation of 21 U.S.C. § 846 and possession with intent to distribute, and  
 2 distribution of, methamphetamine in violation of 21 U.S.C. § 841(a)(1). Defendants have been  
 3 arraigned on the indictment, entered pleas of not guilty, and a status conference hearing before this  
 4 Court is scheduled for 1:00 p.m. in Oakland on Friday, May 23, 2014.

5       2. Counsel for the government and counsel for defendant RUIZ-MERCADO are not  
 6 available to attend the hearing scheduled for May 23, 2014. Counsel for defendants also represent that  
 7 additional time is necessary to confer with defendants, conduct and complete an independent  
 8 investigation of the case, conduct and complete additional legal research including for potential pre-  
 9 trial motions, review the discovery and potential evidence in the case, and prepare for trial in the event  
 10 that a pretrial resolution does not occur. Defense counsel represent that failure to grant the  
 11 continuance would deny them reasonable time necessary for effective preparation, taking into account  
 12 the exercise of due diligence. Counsel for defendants also agree that the requested continuance is  
 13 necessary and excludable for purposes of continuity of counsel. The parties agree that the continuance  
 14 granted by the Court was not based on congestion of the Court's calendar, lack of diligent preparation  
 15 on the part of the attorney for the government or the defense, or failure on the part of the attorney for  
 16 the government to obtain available witnesses.

17       3. For purposes of computing the date under the Speedy Trial Act by which defendants'  
 18 trial must commence, the parties agree that the time period of May 23, 2014, to June 27, 2014,  
 19 inclusive, should be excluded pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i) and (h)(7)(B)(iv)  
 20 because the delay results from a continuance granted by the Court at defendant's request, without  
 21 government objection, on the basis of the Court's finding that: (i) the ends of justice served by the  
 22 continuance outweigh the best interest of the public and defendants in a speedy trial; (ii) failure to  
 23 grant the continuance would be likely to make a continuation of the proceeding impossible, or result in  
 24 a miscarriage of justice; and (iii) failure to grant the continuance would unreasonably deny defendants  
 25 continuity of counsel and would deny defense counsel the reasonable time necessary for effective  
 26 preparation, taking into account the exercise of due diligence.

1       4. Defendants' counsel represent that they have fully informed their clients of their  
2 Speedy Trial rights and that, to their knowledge, their clients understand those rights and agree to  
3 waive them. Defendants' counsel further believe that their clients' decision to give up the right to be  
4 brought to trial earlier than if time were not excluded from the Speedy Trial Act is an informed and  
5 voluntary one.

6       5. Nothing in this stipulation shall preclude a finding that other provisions of the Speedy  
7 Trial Act dictate that additional time periods be excluded from the period within which trial must  
8 commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the  
9 future authorize the exclusion of additional time periods from the period within which trial must  
10 commence.

11           IT IS SO STIPULATED.

12 Dated: May 20, 2014

MELINDA HAAG  
United States Attorney

14           \_\_\_\_\_  
15 /S/ *Garth Hire*  
GARTH HIRE  
Assistant United States Attorney

16           Attorneys for Plaintiff  
17           UNITED STATES OF AMERICA

19           \_\_\_\_\_  
20 /S/ *per e-mail authorization*  
JOYCE LEAVITT  
Assistant Federal Public Defender  
21 Attorney for Defendant  
22 Mario Ivan Sandoval

5/20/2014

Date

23           \_\_\_\_\_  
24 /S/ *per e-mail authorization*  
ERIK BABCOCK  
25 Attorney for Defendant  
Daniel Ruiz-Mercado

5/20/2014

Date

## {PROPOSED} ORDER

The Court has read and considered the Stipulation Regarding Request for (1) Continuance of Hearing Date and (2) Findings of Excludable Time Periods Pursuant to Speedy Trial Act, filed by the parties in this matter. The Court hereby finds that the Stipulation, which this Court incorporates by reference into this Order, demonstrates facts that support a continuance in this matter, and provides good cause for a finding of excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161.

The Court further finds that: (i) the ends of justice served by the continuance outweigh the best interest of the public and defendants in a speedy trial; (ii) failure to grant the continuance would be likely to make a continuation of the proceeding impossible, or result in a miscarriage of justice; and (iii) failure to grant the continuance would unreasonably deny defendants continuity of counsel and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

**THEREFORE, FOR GOOD CAUSE SHOWN:**

A status conference in this matter is scheduled for 1:00 p.m. on Friday, June 27, 2014. The time period of May 23, 2014, to June 27, 2014, inclusive, is excluded in computing the time within which the trial must commence, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(iv). Nothing in this Order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excluded from the period within which trial must commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the future authorize the exclusion of additional time periods from the period within which trial must commence.

IT IS SO ORDERED.

May 20, 2014

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DATE

**HONORABLE JAMES DONATO  
UNITED STATES DISTRICT JUDGE**

